IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.06.2007

C O R A M :

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.A.No. 295 of 2007
and M.P.Nos.1 and 2 of 2007

G. Venkataswami Naidu
Kasthuriswami Naidu Trust
53 Bhasyakara Road
R.S. Puram
Coimbatore rep. By its
Managing Trustee
G.V. Kasthurisamy. ... Appellant

-vs-

1.The Land Commissioner
Chepauk, Chennai 600 005.

2.The District Revenue Officer cum
Tamil Nadu Urban Land Tax Tribunal
Collectors Office Compound
Coimbatore.

3.The Assistant Commissioner
Urban Land Tax
Collectors Office Compound
Coimbatore.

4.The Special Tahsildar
Urban Land Tax Collection
Collectors Office Compound
Coimbatore. ... Respondents

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Writ Appeal filed under Clause 15 of Letters Patent against the order of the learned single Judge dated made in W.P.No.12317 of 2000 dated 05.02.2007.

this writ Petition Presented to this Court under Article 226 of the Constitution of india to issue a Writ of Certiorari, calling for the records in U.L.T.A No. 91/98/E5 dated 11.2.2000 on the file of the 2nd respondent herein confirming the proceedings of the 3rd respondent herein

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in U.L.C.No. 170/95/1404/UPM/ dated 22.1.96 and quash the same.

For appellant :: Ms. P. Bagyalakshmi
For respondents :: Mr. Haza Nazirudeen
Spl. Govt. Pleader

JUDGMENT

(DELIVERED BY P.JYOTHIMANI,J.)

The order issued by the second respondent, the District Revenue Officer-cum-Tamil Nadu Urban Land Tax Tribunal, Coimbatore dated 11.02.2000, confirming the order of the third respondent, the Assistant Commissioner of Urban Land Tax, Coimbatore, dated 22.01.1996, was challenged by the petitioner on the ground that the petitioner being a charitable trust running school is entitled for exemption from the provisions of the Tamil Nadu Urban Land Tax Act. As against the order of assessment passed by the third respondent under the Tamil Nadu Urban Land Tax Act (in short, "the Act"), the petitioner filed appeals before the Tribunal in C.M.A.Nos.158 and 159 of 1992. The matter was remanded back to the assessing authority to consider the objections raised by the petitioner. It is the case of the petitioner that after the remand, the Assistant Commissioner without considering the objections passed orders holding that the petitioner is liable to pay urban land tax for fasli 1401 in his proceedings dated 22.01.1996. As against that the said order the petitioner preferred an appeal before the Tribunal and the same also came to be dismissed and thereafter, the revision filed before the Special Commissioner, Land Reforms was also rejected. In these circumstances, the writ petition came to be filed.

2. The learned single Judge while disposing of the writ petition and having found that the petitioner has not even submitted its returns as mandatorily required under Section 7D of the said Act has held that the petitioner should be given another opportunity to decide the claim for exemption as per Section 29-D of the Act and in view of the said finding, directed the petitioner to deposit 50% of the amount of Rs.18,414/- directing that on such payment the impugned order of the Assistant Commissioner dated 22.01.1996 will be set aside and the Assistant Commissioner was directed to conduct fresh enquiry and pass orders. It is as against the said order of the learned single Judge, the present appeal is filed.

3. We have heard the learned counsel for the appellant as also the learned Special Government Pleader.

4. On perusal of the records, it is seen that the appellant is claiming exemption from the purview of the Tamil Nadu Urban Land Tax Act, 1966 (in short, "the Act") for the possession of Trust lands. Even though the learned counsel for the appellant would submit that exemption under

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Sections 29 (h) and 29 (k) of the Act are automatic, when once a claim is made that the Trust is running a college or institution, nevertheless, it remains the fact that the said factum has to be ascertained by the assessing authority. It is seen that, in fact, the appellant has submitted objections before the assessing authority, viz., the third respondent, Assistant Commissioner, Urban Land Tax, Coimbatore, on 29.07.1991, and when it is held by the learned single Judge that the eligibilty of the appellant for exemption has to be decided by the assessing authority, third respondent herein, we are of the view that there is no necessity for direction against the appellant to deposit the amount as stated in the order. Further, the appellant has paid amounts on various occasions. In view of the above said facts, direction is issued to the third respondent, assessing authority, to decide as to whether the appellant is entitled to the exemption from the purview of the Tamil Nadu Urban Land Tax Act, 1966 and pass appropriate orders, after conducting enquiry expeditiously, in any event, within a period of four weeks from the date of receipt of copy of the order and accordingly, decide the liability of the appellant under the said Act.

The writ appeal stands disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

kh

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

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Chepauk, Chennai 600 005.

2.The District Revenue Officer cum
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